

**Remarks**

Claims 1-6, 8-11, 13, 14, and 16-21 are pending and at issue in the present application, claim 7 has been canceled, and claims 12, 15, 22, and 23 have been allowed.

Applicant respectfully traverses the rejection of claims 1-6, 8-11, 13, 14, and 16-21 as obvious over Hart et al.

Claim 1, and claims 2, 3, and 21 dependent directly or indirectly thereon, recite an evaporative device including a container for holding a liquid, wherein the container includes an opening. The device further includes a porous wick extending through the opening such that a portion of the wick contacts the liquid held within the container and a portion of the wick is exposed to the ambient environment, wherein the wick transfers the liquid from the container. The evaporative device further includes a capillary member having a surface in communication with a portion of the wick, wherein the surface has one or more nonporous capillary channels that extend radially from the wick along the surface of the capillary member to the periphery thereof.

Claim 4, and claims 5, 6, 8-11, 13, 14, and 16-20 dependent directly or indirectly thereon, specify an evaporative device comprising a container for holding a liquid, wherein the container includes an opening. The device further includes a porous wick extending through the opening such that a portion of the wick contacts the liquid held within the container and a portion of the wick extends outside of the container such that the wick transfers the liquid from the container. Still further, the device includes a capillary plate having a surface in communication with a portion of the wick, wherein the surface has nonporous capillary channels that extend radially from the wick along the surface of the capillary plate and wherein the capillary channels are substantially continuous along lengths thereof.

Hart et al. fails to disclose or suggest an evaporative device including a capillary member or plate having a surface in communication with a portion of the wick, wherein the surface has one or more nonporous capillary channels that extend radially from the wick along the surface of the capillary member or plate, as recited by each of claims 1-6, 8-11, 13, 14, and 16-21.

Further, Hart et al. does not disclose or suggest an evaporative device including a capillary member or plate having a surface in communication with a portion of the wick, wherein the surface has nonporous capillary channels that extend radially from the wick

along the surface of the capillary plate, wherein the capillary channels are substantially continuous along lengths thereof, as specified by each of claims 4-6, 8-11, 13, 14, and 16-20.

In contrast, Hart et al. discloses a first capillary medium and a screen that consists of a second, porous capillary medium with a plurality of small openings to allow air to pass through. Hart et al. distinguishes the second capillary media by stating, "as [a] second capillary medium a material with open pores from which liquid evaporates is suited, e.g. material containing natural or synthetic fibers, woven or non-woven fabrics, porous media." (Column 2 lines 10-13). In a particular embodiment disclosed in Fig. 3, the screen (15) has an annular frame (18) with a central opening that is covered with a sheet of capillary air permeable material. In this embodiment, Hart et al. indicates the annular frame (18) is porous by stating: "The gauze sheet 19' receives as a second capillary medium 19 liquid drawn into the shaft 14 and to the screen 15 by the first capillary medium 16. The frame 18 is made of the same material as the shaft 14, here card board 16, i.e. the frame contributes to the distribution and transfer of the liquid to the gauze sheet 19' using capillary action." (Column 4, lines 15-19, underscore added). In a further embodiment, Hart et al. expressly defines the annular frame (18) as being non capillary in stating: "In another embodiment (not shown) the frame 18 is made of a non capillary material, such as plastic or metal, serving to stabilize the second capillary medium 19 which is connected to the shaft for liquid transfer." (Column 4, lines 28-31, underscore added).

Applicant also contends that the claims as presented are patentable over the art identified in applicant's Fourth Supplemental Information Disclosure Statement filed herewith. Specifically, the GB 0306449.0 application, to which previously submitted McGee et al. International Publication No. WO 04/082726 claims priority, was filed March 21, 2003, and to the best of the undersigned's knowledge is not believed to have been published prior to the filing date of the present application. With respect to Mori U.S. Patent No. 4,304,688, the vessel shown in FIG. 1 uses a non-woven fabric as an evaporative plate 5. Barlics et al. U.S. Patent No. 4,928,881 discloses a wick 16 (FIG. 1) made from strands of polyester or other suitable material capable of capillary action that has a lower end 50 maintained in a tight bundle and a flared upper end 52. Further, Malek International Publication No. WO 98/16262, filed October 9, 1997, discloses an air freshener dispenser device 10 (FIG. 1) that includes a nonporous centerpost wick 13 and an absorbent matrix 16 that is a flexible liquid-permeable pad. Finally, Jones et al. International Publication No. WO 02/34302, filed

October 19, 2001, discloses an integrally formed wicking and emanation system 1 (FIGS. 1 and 2) having a wick portion 5 that comprises a plurality of grooves [21] each of which divides into a plurality of grooves at an emanation surface 6. Jones et al. '302 teaches away from using a two-piece wicking and emanation system by stating:

A disadvantage of known emanators is that it is necessary to use a separate wick and emanation surface. This is because in order for a capillary action in a wick to effectively and efficiently draw up liquid from the reservoir to the emanating surface, it is necessary for a large void volume to exist within the capillary structure within the wick.

(Page 2, lines 6-12). Further, Jones et al. '302 teaches away from utilizing absorptive materials in the wicking and emanation system:

An advantage of using a microstructure to form the wicking and emanation system is that the transport of liquid is a surface transport and therefore absorption of the liquid into the system is minimal, if not non existent, thus improving evaporation efficiencies from the surface and reducing fragrance capture as experienced with absorption pads [and wicks].

(Page 6, lines 23-29). Because Jones et al. '302 teaches away from the use of absorption pads, it follows that the publication also teaches away from the use of absorbent devices, such as wicks.

The prior art does not disclose each of the elements recited by the claims at issue, and hence, these claims are not anticipated thereby. In addition, because the prior art does not disclose or suggest that it would be possible or even desirable to provide an evaporative device as specified by the claims at issue, these claims are not obvious thereover. The prior art must disclose at least a suggestion of an incentive for the claimed combination of elements in order for a *prima facie* case of obviousness to be established. See *In re Sernaker*, 217 U.S.P.Q. 1 (Fed. Cir. 1983) and *Ex Parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. 1985). From the language quoted above, Hart et al. teaches away from an evaporative device including a capillary member or plate having a surface in communication with a portion of the wick, wherein the surface has one or more nonporous capillary channels that extend radially from the wick along the surface of the capillary member or plate.


No new matter has been added by this response.

For the foregoing reasons, reconsideration and withdrawal of the rejection of the claims at issue and allowance thereof are respectfully requested.

Respectfully submitted,

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Date: May 8, 2006

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